

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

MARK ANDREW STEADMAN,

CIVIL NO. 14-3442 (MJD/JSM)

Plaintiff,

v.

ORDER

TOM ROY, et al.,

Defendants.

Frederick J. Goetz, Goetz & Eckland, P.A., Counsel for Plaintiff.

Lindsay K. Strauss, Assistant Attorney General, Counsel for Defendants.

The above matter came before the Court upon the Report and Recommendation of United States Magistrate Judge Janie S. Mayeron dated March 23, 2015 in response to Defendants' motion to dismiss.

Defendants object to that portion of the Report and Recommendation in which the Magistrate Judge found that the favorable termination rule under Heck v. Humphrey, 512 U.S. 477 (1994) applies to Plaintiff's claim. Defendants further object to that portion of the Report and Recommendation in which the Magistrate Judge found that Plaintiff has sufficiently alleged personal

involvement by Defendant Tom Roy.

Pursuant to statute, the Court has conducted a de novo review upon the record. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based on that review, the Court finds that, assuming without deciding that the requirements of Heck apply¹, Plaintiff has sufficiently alleged that there has been a favorable termination of the sentence that resulted from a violation of the administratively imposed conditional release conditions. The Court further finds Plaintiff has alleged sufficient personal involvement by Defendant Roy.

Accordingly, the Court will overrule the Defendants' objections and will adopt the Report and Recommendation, with the exception noted herein.

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss [Docket No. 13] is **GRANTED** in part and **DENIED** in part as follows:

1. The motion to dismiss Plaintiff's claims pursuant to § 1983 against the State of Minnesota and against Roy, Peckskamp and Krippner in their official capacities is GRANTED and those claims are DISMISSED WITHOUT PREJUDICE; and

2. The motion to dismiss Plaintiff's remaining § 1983 claims against

¹ Plaintiff did not file objections to the Report and Recommendation, but did note in his response to Defendants' objections that he disagreed with the Magistrate Judge's conclusion that Heck's requirements apply to his § 1983 claims. The Court will not adopt the Magistrate Judge's conclusion that Heck applies to Plaintiff's § 1983 claim, and will instead address this issue on a full record, after discovery is complete.

Roy, Peckskamp, and Krippner in their individual capacities, and the state law claim of false imprisonment is DENIED.

Dated: April 29, 2015

s/ Michael J. Davis
MICHAEL J. DAVIS
Chief Judge
United States District Court